

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR
PROTECTION CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF
INVESTMENT SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the
Liquidation of Bernard L. Madoff Investment
Securities LLC,

Plaintiff,

v.

BNP PARIBAS S.A., et al.

Defendants.

Adv. Pro. No. 12-01576 (SMB)

**BNP PARIBAS APPELLEES' COUNTER-DESIGNATION OF
ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL**

Appellees BNP Paribas S.A., BNP Paribas (Suisse) S.A., BNP Paribas Arbitrage SNC, BNP Paribas Bank & Trust Cayman Limited, BGL BNP Paribas Luxembourg S.A., BNP Paribas Securities Services – Succursale de Luxembourg, and BNP Paribas Securities Services S.A. (collectively, the “BNP Paribas Appellees”), by and through their undersigned counsel, respectfully submit, pursuant to Rule 8009 of the Federal Rules of Bankruptcy Procedure and

Rule 8009-1 of the Local Bankruptcy Rules for the Southern District of New York, their counter-designation of items to be included in the record on appeal with respect to the appeal by Irving H. Picard (the “Trustee”), as trustee of the substantively consolidated estate of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act (“SIPA”), 15 U.S.C. §§ 78aaa, et seq., and Bernard L. Madoff, individually, in the above captioned adversary proceeding (the “Adversary Proceeding”) of the Stipulated Final Order Granting Motion to Dismiss Complaint (the “Final Judgment”) before the United States Court of Appeals for the Second Circuit.

**COUNTER-DESIGNATION OF ITEMS TO BE
INCLUDED IN THE RECORD ON APPEAL¹**

1. All items designated or to be designated by any other appellant, cross-appellant, appellee, or cross-appellee to any of the appeals or cross-appeals from the Final Judgment, including, without limitation, the items designated in the Trustee’s Statement of Issues to be Presented and Designation of Items to be Included in the Record on Appeal (ECF No. 93);²
2. The Certification of Direct Appeal to Court of Appeals (ECF No. 95); and
3. The April 8, 2016 Letter on Behalf of the Subsequent Transferee Defendants in Response to Mr. Sheehan’s April 7, 2016 Letter (*Secs. Inv. Protection Corp. v. Bernard L. Madoff Inv. Secs., LLC*, Adv. Pro. No. 08-01789 (SMB), ECF No. 13070).

¹ Items designated include all exhibits and submissions attached thereto and, as to hearing transcripts, any and all documents admitted into evidence.

² Unless otherwise stated, citations to (ECF No. ____) refer to docket entries in the proceeding captioned *Picard v. BNP Paribas SA*, Adv. Pro. No. 12-01576 (SMB) (Bankr. S.D.N.Y.).

RESERVATION OF RIGHTS

The BNP Paribas Appellees expressly reserve the right to supplement the record on appeal or cross-appeal and to adopt the designation of any items designated or counter-designated by any other appellant, cross-appellant, appellee, or cross-appellee to any of the appeals or cross-appeals from the Final Judgment.

Dated: April 11, 2017
New York, New York

CLEARY GOTTlieb STEEN & HAMILTON LLP

By: 

Breon S. Peace

(bpeace@cgsh.com)

Ari D. MacKinnon

(amackinnon@cgsh.com)

One Liberty Plaza

New York, New York 10006

T: 212-225-2000

F: 212-225-3999

Attorneys for the BNP Paribas Appellees